

REMARKS

Reconsideration of the present application in view of the preceding amendment and following remarks is respectfully requested. Applicant notes the above amendment to the specification was made for clarification purposes only, without prejudice to the filing of any related divisional, continuation, or continuation-in-part application. No new matter has been added by way of amendment to the application. Applicant further notes the present amendment accompanies a Petition to Accept Late Priority Claim for unintentional delay, in compliance with 35 U.S.C. § 120 and 37 C.F.R. § 1.78(a), as well as the statement of unintentional delay. The surcharge set forth in 37 C.F.R. § 1.17(t) was previously paid.

Rejection under 35 U.S.C. § 103(a)

Applicant maintains arguments traversing the claim rejections under 103(a), as set forth in the Response dated October 27, 2004 in reply to the Office Action dated July 27, 2004.

Applicant notes the Advisory Action dated November 24, 2004, stated that U.S. Patent Application No. 08/484,593, issued as U.S. Patent No. 6,387,650, should have been submitted on an Information Disclosure Statement for consideration in compliance with 37 C.F.R. § 1.56.

Applicant submits the cited U.S. application and patent are cumulative with PCT WO 96/40980, which was included in the Supplemental Information Disclosure Statement dated August 27, 2001. (Indeed, PCT WO 96/40980 claims priority to U.S. Application No. 08/484,593, as indicated on the face of the PCT.) Consequently, Applicant respectfully submits neither the cited U.S. Application No. 08/484,593, nor the resulting issued patent, U.S. Patent No. 6,387,650, are material to patentability of the present application.

Applicant further submits omission of the reference to the cited U.S. application and patent in the originally filed application was an inadvertent error made with no intention to deceive or mislead the U.S. Patent and Trademark Office. Accordingly, Applicant has made every effort to comply with 37 C.F.R. § 1.56, 37 C.F.R. § 1.78(a), and 35 U.S.C. § 120. As such,

Application No. 09/940,682
Reply to Office Action dated July 27, 2004

Applicant respectfully requests the above amendment to the specification be reconsidered. Applicant respectfully submits the amendment obviates the outstanding rejections of the presently claimed invention, and requests the rejections be withdrawn.

The Director is authorized to charge any additional fees due by way of this Amendment, or credit any overpayment, to our Deposit Account No. 19-1090.

All of the claims remaining in the application are now clearly allowable. Favorable consideration and a Notice of Allowance are earnestly solicited.

Respectfully submitted,

SEED Intellectual Property Law Group PLLC



William T. Christiansen, Ph.D.
Registration No. 44,614

WTC:kw

Enclosure:

Postcard
Petition for Extension of Time

701 Fifth Avenue, Suite 6300
Seattle, Washington 98104-7092
Phone: (206) 622-4900
Fax: (206) 682-6031

#550891_1.DOC